

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

In the Matter of)
)
Reorganization and Revision of)
Parts 1, 2, 21 and 94 of)
the Rules to Establish a New)
Part 101 Governing Terrestrial)
Microwave Fixed Radio Service)

WT Docket No. 94-148

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REPLY COMMENTS OF
EMI COMMUNICATIONS CORPORATION

EMI Communications Corporation ("EMI"), by its attorneys, hereby submits these reply comments in response to parties' comments filed in the above-captioned Notice of Proposed Rulemaking.^{1/}

EMI commends the Commission for its efforts to establish simplified and uniform rules applicable to both private and common carrier fixed point-to-point microwave licensees and applicants. EMI is the licensee of approximately 250 stations and operates facilities in multiple microwave frequency bands. EMI has participated in this process through its active involvement with the National Spectrum Managers Association, Inc. ("NSMA") and the Fixed Point-to-Point Communications Section, Network Equipment Division of the Telecommunications Industry Association ("TIA"). These associations have made significant efforts to strengthen the proposed Part 101 rules.

^{1/} In the Matter of Reorganization and Revision of Parts 1, 2, 21, and 94 of the Rules to Establish a New Part 101 Governing Terrestrial Microwave Fixed Radio Service, WT Docket No. 94-148, FCC 94-314 (rel. Dec. 28, 1994), 60 Fed. Reg. 2722-26 (Jan. 11, 1995) ("NPRM"), DA95-140 (rel. Feb. 2, 1995) ("Extension Order"). No. of Copies rec'd 014
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Consistent with that endeavor, EMI supports the refinements to the proposed rules offered by NSMA and TIA.^{2/} The proposed rules must be revised to ensure that common carrier ("CC") and private operational fixed point-to-point ("POFS") microwave licensees can serve the public interest and "operate as efficiently as possible without being hampered by obsolete regulations."^{3/} EMI also supports those parties who are promoting the adoption of some form of pre-licensing authorization. In particular, EMI supports BellSouth's proposal to establish rules that will give point-to-point microwave radio service applicants the ability to construct and operate systems prior to the grant of an authorization. The Commission's adoption of the Part 101 rules with the revisions supported in these reply comments will result in "user friendly" policies that will encourage more efficient use of the microwave spectrum and foster the provision of FCC improved service to the public.^{4/}

I. THE NSMA/TIA PROPOSED REVISIONS SHOULD BE ADOPTED

NSMA and TIA have proposed that the Commission revise the rules to provide that: (i) private and common carrier users are subject to regulatory parity; (ii) user-related rules promote spectral efficiency and interference protection; and (iii) equipment-related rules are consistent with industry standards (e.g., antenna standards and Automatic Transmitter Power Control ("ATPC")).^{5/}

^{2/} See, e.g., Joint Comments of NSMA and TIA.

^{3/} NPRM at ¶7.

^{4/} See NPRM at ¶21.

^{5/} See, e.g., NSMA/TIA Comments at iii-ix .

The following sections briefly outline the proposed revisions for each of these areas.

A. Regulatory Parity

Regulatory parity dictates the consolidation of all technical rules and frequency assignments applicable to Part 21 and Part 94 fixed point-to-point microwave applicants and licensees into new Part 101. Regulatory parity further requires that POFS and CC applicants be subject to the same application requirements and licensing rules. Regulatory parity will ensure that band-sharing occurs in a nondiscriminatory manner, unnecessary and duplicative rules are eliminated, regulatory administration is more useful and efficient, and users have greater certainty during the transition to new rules.^{6/}

Notwithstanding the need for regulatory parity, NSMA/TIA are correct that there remains a need for the preservation of the distinction between POFS and CCs.^{7/} The continued recognition of the differences between these entities is required because they fulfill separate roles. POFS provide customized services and meet public safety and emergency needs. On the other hand, CC users provide commercial services to the general public on a nondiscriminatory basis.

B. User-Related Policies

Several revisions must be made to the Commission's user-related rules. These revisions are necessary to enhance the ability of fixed point-to-point microwave users

^{6/} NMSA/TIA Comments at 7-15.

^{7/} NSMA/TIA Comments at 16-17.

to operate in a spectrally-efficient, interference-free environment. Central to achieving these objectives is the need for the Commission to establish a transition period for the implementation of the Part 101 rules. A transition period is necessary for affected parties to have adequate time to adjust to the changes in the rules that will occur. As highlighted by NSMA/TIA, these changes will affect many areas, including frequency coordination, interference protection, loading standards, and antenna requirements.^{8/}

In addition, the Commission must adopt the following other user-related revisions proposed by NSMA/TIA.^{9/}

- There must be criteria for classifying "major" application amendments and license modifications that are industry appropriate.
- All POFS and CC microwave licensees must have eighteen (18) months to construct facilities to accommodate delays due to weather, and shortages of equipment, site or crew.
- POFS and CC applicants and licensees must be subject to the frequency coordination rules.
- Dispute resolution procedures should be established to address conflicts concerning interference; however, parties should be permitted to relax the interference criteria upon mutual consent.
- Bulletin 10-F standards should be used to define the "practical threshold" for interference protection.
- Frequency tolerance specifications should be added for the 4, lower 6 and 11 GHz bands and heterodyne equipment.

^{8/} NSMA/TIA Comments at 32-33.

^{9/} NSMA/TIA Comments at 5-6.

- Modulation specifications must be made applicable to analog systems and expanded to cover equipment operating below 19.7 GHz.
- Loading standards must be limited to digital services and to commercially available equipment.
- The maximum authorized bandwidth should be specified for individual frequency bands.

C. Equipment-Related Policies

The Commission also must revise its proposed rule to incorporate equipment-related policies that promote spectral efficiency and uniformity of usage in the industry.^{10/} Antenna standards must explicitly apply to all fixed stations operating in the 900 MHz to ensure that antenna upgrades can be requested and charged to the appropriate party.^{11/} In addition, the definition for antenna polarization proposed by NSMA/TIA should be adopted.^{12/} The revised definition will allow for cross-polarization, while at the same time limiting the use of circular polarization unless Commission authority has been received. Finally, the equipment-related rules must allow for the use of Automatic Transmitter Power Control ("ATPC") by both CC and POFS licensees. ATPC adjusts the transmitter output power of a digital microwave radio system.^{13/} ATPC permits the licensee to operate a transmitter at less than the maximum power most of the time.

^{10/} NSMA/TIA Comments at 34-44.

^{11/} NSMA/TIA Comments at 35.

^{12/} See NSMA/TIA Comments at 17, Appendix A at A-69, A-70 §101.117.

^{13/} NSMA/TIA Comments at 37-40.

II. THE COMMISSION SHOULD ADOPT RULES THAT ALLOW APPLICANTS TO SEEK BLANKET SPECIAL TEMPORARY AUTHORITY

EMI supports the general position of numerous parties that the Commission should adopt some form of pre-licensing authorization that would permit applicants to construct, and in some cases operate, facilities prior to a grant of authorization.^{14/} In particular, EMI supports the Comments of BellSouth.^{15/} As a past recipient of blanket special temporary authority ("BSTA"), EMI has had first-hand experience with the Commission's informal process for over a year. Implementation of a formal BSTA policy would serve the public interest; the process is user friendly, eliminates regulatory delay and allows the applicant to respond to consumer needs more quickly.

The Commission has the benefit of having designed a well-crafted process that has been utilized successfully for a significant period of time. The BSTA has a proven track record. In light of that record, the Commission should not hesitate to adopt rules that mirror its past BSTA policy.^{16/}

^{14/} See, e.g., NSMA/TIA Comments at 16; Comments of BellSouth at 1-4 ("BellSouth Comments"); Comments of AT&T Corp. at 1-2; SBC Communications, Inc. at 6-7; Comments of Pacific Bell, Nevada Bell, and Pacific Bell Mobile Services at 4; Comments of Harris Corporation-Farion Division at 3-4; Comments of AirTouch Communications, Inc. at 10; Comments of Local Area Telecommunications, Inc. at 4 ("LOCATE"); Comments of Central and South West Services, Inc. at 7-8; Comments of Entergy Services, Inc. at 10-11.

^{15/} BellSouth Comments at 1-4.

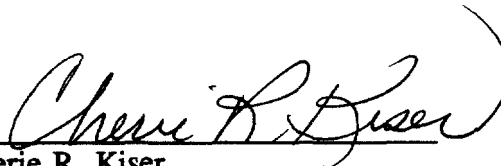
^{16/} See BellSouth Comments at 3 for a list of the requirements imposed on applicants seeking a BSTA under the Commission's past policy.

CONCLUSION

Adoption of the proposed revisions of NSMA/TIA, and a formal BSTA policy will provide the point-to-point microwave industry with a clear and comprehensive framework with which to operate and prosper for years to come. These proposals are fully consistent with the Commission's goals of providing effective and efficient use of the microwave spectrum in the public interest.^{17/} Wherefore, the Commission promptly should adopt the Part 101 rules with the modifications outlined in the foregoing reply comments.

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^{17/} NPRM at ¶7.

CERTIFICATE OF SERVICE

I hereby certify that on this day of March 17, 1995, I caused a copy of the foregoing "Reply Comments of EMI Communications Corporation" to be served on the following parties either by First Class mail, postage prepaid, or by hand delivery.

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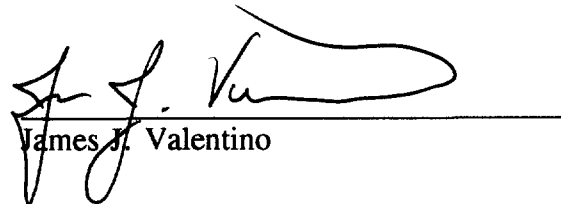
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